

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

TINA MARIE CLARKE,

Plaintiff,

v.

Civil No. 06-CV-10394

HONORABLE MARIANNE O. BATTANI

UNITED STATES DISTRICT JUDGE

DAVID NEWBLATT,

Defendant,

**OPINION AND ORDER GRANTING THE MOTION FOR VOLUNTARY DISMISSAL**

Tina Marie Clarke, (“plaintiff”), presently confined at the Huron Valley Women’s Complex in Ypsilanti, Michigan, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff has now filed a letter request to withdraw from the case, which is construed by the Court as a motion for voluntary dismissal pursuant to Fed.R.Civ.P 41(a). For the reasons stated below, the motion for voluntary dismissal is granted and the complaint is **DISMISSED WITHOUT PREJUDICE.**

**I. DISCUSSION**

Fed.R.Civ.P. 41(a) provides that a plaintiff may dismiss an action without order of court by filing a notice of dismissal before service by the adverse party of an answer or motion for summary judgment. *See also Doran v. McGinnis*, 158 F.R.D. 383, 389 (E.D. Mich. 1994). Plaintiff is entitled to a voluntary dismissal of her civil rights complaint, in light of the fact that the defendant has not yet been

served in this case, nor has he filed an answer to the complaint or motions to dismiss or for summary judgment. *Id.*

## II. ORDER

Based upon the foregoing, the motion for voluntary dismissal is **GRANTED** and the complaint is **DISMISSED WITHOUT PREJUDICE**.

s/Marianne O. Battani  
**HON. MARIANNE O. BATTANI**  
UNITED STATES DISTRICT COURT

DATED: April 13, 2006